

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

MAURICE J. SINKFIELD,)	
)	
Plaintiff,)	Case No. 7:20CV00149
)	
v.)	OPINION AND ORDER
)	
FEDERAL BUREAU OF PRISONS, ET)	By: James P. Jones
AL.,)	United States District Judge
)	
Defendants.)	

Maurice J. Sinkfield, Pro Se Plaintiff.

Plaintiff, Maurice J. Sinkfield, brings this civil action against various named federal prison officials, the Federal Bureau of Prisons, the U.S. Department of Justice, and “multiple unknown officers and supervisors.” Compl. 1–2, ECF No. 1. Given the nature of his allegations, Sinkfield is apparently suing the defendants for violations of his constitutional rights, pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and for unspecified negligent actions of federal officials, pursuant to the Federal Tort Claims Act “FTCA”). His claims against some defendants must be summarily dismissed because he can state no actionable claim against them under the cited authority.¹

¹ Pursuant to 28 U.S.C. § 1915A(b)(1), a court must summarily dismiss any claim by a prisoner seeking redress from a governmental entity or official if the claim is frivolous, malicious, or fails to state a claim upon which relief may be granted.

In *Bivens* and later cases, the Supreme Court has recognized an implied cause of action for damages against individual federal prison officials under the Eighth Amendment, which protects against the use of excessive force and deliberate indifference to serious medical needs. *Doe v. Meron*, 929 F.3d 153, 167–68 (4th Cir. 2019) (citing *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1855 (2017)). A *Bivens* claim will *not* lie against either agencies or officials in their official capacities. *Doe v. Chao*, 306 F.3d 170, 184 (4th Cir. 2002). Accordingly, I will dismiss Sinkfield’s claims asserted against the Federal Bureau of Prisons and the Department of Justice.

Similarly, a *Bivens* plaintiff cannot hold a government official liable for the unconstitutional conduct of his subordinates under a theory of respondeat superior. *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). “Because vicarious liability is inapplicable to *Bivens* . . . , a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Id.* For this reason, I will dismiss Sinkfield’s claims against “multiple unknown officers and supervisors.”

The United States and its agencies enjoy sovereign immunity from suit unless Congress has explicitly waived such immunity. *FDIC v. Meyer*, 510 U.S. 471, 475 (1994). The FTCA provides a limited waiver of that immunity, allowing the *United States* to be held liable

for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the

Government . . . under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

28 U.S.C. § 1346(b)(1); *see Suter v. United States*, 441 F.3d 306, 310 (4th Cir. 2006).

Because Sinkfield thus cannot bring an FTCA case against individual federal officials or agencies, I will dismiss his FTCA claim in this action, without prejudice to his ability to amend the Complaint to add the United States as the proper defendant to such a claim.²

For the reasons stated, it is **ORDERED** as follows:

1. All claims against the following defendants are DISMISSED without prejudice: the Federal Bureau of Prisons, the U.S. Department Justice, and “multiple unknown officers and supervisors”; and
2. All claims against the remaining defendants under the FTCA are hereby DISMISSED without prejudice to THE FILING OF AN AMENDED COMPLAINT no later than 14 days from the date of this Order to name United States of America as the proper defendant to his FTCA claim. As an alternative, if Sinkfield has

² The FTCA clearly provides that, prior to bringing an action against the United States, a claimant “shall have first presented the claim to the appropriate Federal agency” for determination prior to filing an action in court. 28 U.S.C. § 2675(a). Sinkfield does not submit with his pleading any documentation indicating that he presented his tort claim to the appropriate agency regarding the allegations in this action.

not yet presented his tort claim to the proper federal agency for resolution, as required before coming to court with an FTCA claim, he may move for voluntary dismissal of this lawsuit, without prejudice to his refiling of the action at some later time after he has completed the claim process with that agency.

ENTER: April 29, 2020

/s/ JAMES P. JONES

United States District Judge

****AMENDED COMPLAINT****

For Clerk's Office Use

Judge J	Rec'd
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IN THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT
OF VIRGINIA

Plaintiff full name_____
Inmate No.

v.

CIVIL ACTION NO. 7:20cv00149_____
Defendant(s) full name(s)

A. Current facility and address: _____

B. Where did this action take place? _____

C. Have you begun an action in state or federal court dealing with the same facts involved in this complaint?

_____ Yes _____ No

If your answer to A is Yes, answer the following:

1. Court: _____

2. Case Number: _____

D. Have you filed any grievances regarding the facts of this complaint?

_____ Yes _____ No

1. If your answer is Yes, indicate the result:

2. If your answer is No, indicate why: _____

E. Statement of Claim(s): State briefly the facts in this complaint. Describe what action(s) each defendant took in violation of your federal rights and include the relevant dates and places. **Do not give any legal arguments or cite any cases or statutes.** If necessary, you may attach additional page(s). Please write legibly.

Claim #1 – Supporting Facts – Briefly tell your story without citing cases or law:

Claim #2 – Supporting Facts – Briefly tell your story without citing cases or law:

F. State what relief you seek from the Court. Make no legal arguments and cite no cases or statutes.

G. If this case goes to trial do you request a trial by jury? Yes _____ No _____

H. If I am released or transferred, I understand it is my responsibility to immediately notify the court in writing of any change of address after I have been released or transferred or my case may be dismissed.

DATED: _____ SIGNATURE: _____

VERIFICATION:

I, _____, state that I am the plaintiff in this action and I know the content of the above complaint; that it is true of my own knowledge, except as to those matters that are stated to be based on information and belief, and as to those matters, I believe them to be true. I further state that I believe the factual assertions are sufficient to support a claim of violation of constitutional rights. Further, I verify that I am aware of the provisions set forth in 28 U.S.C. §1915 that prohibit an inmate from filing a civil action or appeal, if the prisoner has, on three or more occasions, while incarcerated brought an action or appeal in federal court that is dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is imminent danger of serious physical injury. I understand that if this complaint is dismissed on any of the above grounds, I may be prohibited from filing any future actions without the pre-payment of the filing fees. I declare under penalty of perjury the foregoing to be true and correct.

DATED: _____ SIGNATURE: _____